



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,570	02/06/2002	Roger K. McGarrah	219250US8	2639
22850	7590	06/27/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			PAN, JOSEPH T	
			ART UNIT	PAPER NUMBER
			2135	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/066,570

Applicant(s)

MCGARRAHAN ET AL.

Examiner

Joseph Pan

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. Applicant's response filed on April 5, 2006 have been carefully considered. The specifications and Claims 1-3, 13-15, and 33 have been amended. Claims 1-33 are pending.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 9-22, 29-31, 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsukamoto et al. (U.S. Patent No. 5,796,828).

#### Referring to claims 1, 33:

Tsukamoto et al. teach:

A system for distributing content over a terrestrial broadcast channel, comprising:

a broadcast station configured to transmit over said terrestrial broadcast channel a television signal including updated content information, distributed at least one of nationally and locally, and television information to all users within a broadcast coverage area (see figure 1, element 101; and column 2, lines 32-35 of Tsukamoto et al.);

An apparatus pre-populated to include predetermined content information stored therein prior to acquisition of said apparatus by a user (see figure 1, element 102; and column 9 line 64, to column 10 line 1 of Tsukamoto et al. ) and configured to:

Receive over said terrestrial broadcast channel said television signal (see figure 1, elements 107, 103 of Tsukamoto et al.),

extract said updated content information from said television signal (see figure 2, element 20 of Tsukamoto et al.),

store said updated content information in said apparatus (see column 2, lines 61-62 of Tsukamoto et al. ),

provide on demand at least one of said updated content information and said predetermined content information in a format for at least one of a television, a data processing device and a gaming device (see e.g. figure 2, element 105; and column 2, lines 58-61 of Tsukamoto et al.),

wherein said updated content information and said predetermined content information includes at least one of digital movies, video games and MPEG Audio Layer 3 (MP3) files (see column 2, lines 21-24; and column 4, lines 45-48 of Tsukamoto et al.).

Referring to claim 2:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the broadcast station is configured to generate said updated content information before transmission via said television signal (see column 16, lines 62-64 of Tsukamoto et al.).

Referring to claim 3:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the broadcast station comprises a content server (see figure 6, element S60 of Tsukamoto et al.).

Referring to claim 4:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the broadcast station comprises a digital television signal receiver (see figure 1, element 106; and column 2, lines 46-49 of Tsukamoto et al.).

Referring to claim 5:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the communication network includes any of a number of transmission media, such as a land-based broadcast system, a cable television system, a fiber optic network or the line (see figure 1, element 106; and column 2, lines 46-49 of Tsukamoto et al.).

Referring to claim 6:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the broadcast station comprises a multiplexer configured to multiplex multiple signals and output the multiplexed information (see column 6, lines 17-23 of Tsukamoto et al.).

Referring to claims 7, 22:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose the inserted information in the content (see column 6, lines 23-26 of Tsukamoto et al.).

Referring to claim 10:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the broadcast station comprises a content control and distribution system configured to transmit updated content information to said broadcast station (see figure 1, element 101; and column 2, lines 40-43 of Tsukamoto et al.).

Referring to claim 11:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the communication network includes any of a number of communication media, such as a land-based broadcast system, a cable television system, a fiber optic network or the like (see column 2, lines 46-49 of Tsukamoto et al.).

Referring to claim 12:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the apparatus is configured to include a backchannel interface enabling two-way communications with the broadcast station over a backchannel communication network (see figure 1, element 106 of Tsukamoto et al.).

Referring to claim 13:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the backchannel interface is configured to transmit one of user content selection information and billing information to the broadcast station over the backchannel communication network (see column 3, lines 37-41 of Tsukamoto et al.).

Referring to claims 14,16:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the apparatus further comprises a backchannel server configured to interface with the broadcast station for billing information and access control information (see figure 2, element 28A of Tsukamoto et al.).

Referring to claim 15:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above).

Tsukamoto et al. further disclose that the apparatus further comprises a backchannel interface configured to receive the billing information and the access control information from the broadcast station (see column 5, lines 31-39 of Tsukamoto et al.).

Referring to claims 17-18:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the backchannel communication network includes any of a number of communication media, such as a land-based broadcast system, a cable television system, a fiber optic network or the like (see figure 1, element 106; and column 2, lines 46-49 of Tsukamoto et al.).

Referring to claim 19:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the apparatus could be any receiving system which receives video signals and access control signals supplied by broadcasting station and process (e.g. descrambles, decodes, and records) the signals (see column 2, lines 58-61 of Tsukamoto et al.).

Referring to claim 20:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose the television (see figure 1, element 105 of Tsukamoto et al.).

Referring to claim 21:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the device could be any receiving system which receives video signals and access control signals supplied by broadcasting station and process (e.g. descrambles, decodes, and records) the signals (see column 2, lines 58-61 of Tsukamoto et al.).

Referring to claim 29:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose that the decrypted content is provided to the user for a predetermined period after a user pays for selected content via the apparatus (see column 6, lines 23-26 of Tsukamoto et al.).

Referring to claims 30-31:

Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). Tsukamoto et al. further disclose the MPEG standard (see column 4, lines 45-48 of Tsukamoto et al.).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 23-28, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukamoto et al. (U.S. Patent No. 5,796,828) in view of Houser et al. (U.S. Patent No. 5,774,859).

Referring to claim 8:

i. Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). However, Tsukamoto et al. do not specifically mention that the broadcast station comprises a switch for output.



ii. Houser et al. disclose a system wherein a switch is utilized (see column 13, lines 29-30 of Houser et al.).

iii. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Houser et al. into the apparatus of Tsukamoto et al. to employ a switch for output.

iv. The ordinary skilled person would have been motivated to have applied the teaching of Houser into the system of Tsukamoto et al. to employ a switch for output, because the broadcast station transmits several video signals to the receiving system (see column 6, lines 17-25 of Tsukamoto et al.), and a switch can select desired data for output.

Referring to claim 9:

Tsukamoto et al. and Houser et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 8 above). Tsukamoto et al. further disclose that the broadcast station comprises a transmitter configured to transmit the selection output information (see figure 1, element 107 of Tsukamoto et al.).

Referring to claims 23-25:

i. Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). However, Tsukamoto et al. do not specifically mention that the tag information is inserted into the content.

ii. Houser et al. disclose a system wherein tags are used to mark the data as either long term or short term, depending on whether the data concerns a shortly upcoming program or a more distant one (see column 23, lines 19-22 of Houser et al.).

iii. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Houser et al. into the apparatus of Tsukamoto et al. to insert tags in the content as a mark.

iv. The ordinary skilled person would have been motivated to have applied the teaching of Houser into the system of Tsukamoto et al. to utilize tags as a

mark for the content, because the broadcast station transmits several video signals to the receiving system (see column 6, lines 17-25 of Tsukamoto et al.), and a tag can mark the beginning and end of the data.

Referring to claim 26:

Tsukamoto et al. and Houser et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 25 above). Houser et al. further disclose the ratings of the content (see column 23, lines 63-66 of Houser et al.).

Referring to claims 27-28:

i. Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). However, Tsukamoto et al. do not specifically mention that the apparatus can be paused by the user.

ii. Houser et al. disclose an apparatus wherein the apparatus can be paused (see column 27, lines 49-50 of Houser et al.).

iii. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Houser et al. into the apparatus of Tsukamoto et al. to implement pause functionality in the apparatus.

iv. The ordinary skilled person would have been motivated to have applied the teaching of Houser into the system of Tsukamoto et al. to implement the pause functionality in the apparatus, because it will provide the convenience to the user to stop and resume an operation with the apparatus.

Referring to claim 32:

i. Tsukamoto et al. disclose the claimed subject matter: a system for distributing content over a terrestrial broadcast channel (see claim 1 above). However, Tsukamoto et al. do not specifically mention the apparatus includes a port configured to couple the apparatus to a gaming device.

ii. Houser et al. disclose a system wherein if a the digital data is video gaming data, a video game player may access the recovered digital through a video game player port (see column 14, lines 12-15 of Houser et al.).

iii. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Houser et al. into the apparatus of Tsukamoto et al. to include a port for playing video game.

iv. The ordinary skilled person would have been motivated to have applied the teaching of Houser into the system of Tsukamoto et al. to include a port for playing video game, because the receiving system receives video signals and access control signals supplied by the broadcast station. When the received video signals are for a game, the apparatus is available for playing video games.

### ***Response to Arguments***

Applicant's arguments filed on April 5, 2006 have been fully considered but they are not persuasive.

Applicant argues:

"There is no predetermined content information pre-populated in receiving system 102." (see page 2, Applicant Arguments/Remarks)

Examiner maintains:

Tsukomoto teaches that "in a preferred reproduction mode of operation, the receiving system retrieves the previously stored access-control signals and uses those access-control signals to control the reproduction and processing of the **previously recorded video signals**. The video signals are supplied to video display 105 or to another peripheral device (not shown)." (see column 3, lines 22-27 of Tsukomoto, emphasis added). Therefore, Tsukomoto discloses the predetermined content information pre-populated [i.e., previously recorded] in receiving system.

Applicant argues:

Art Unit: 2135

"At column 3, lines 22-27, Tsukomoto references previously stored access control signals and previously recorded video signals. The access control signals do not relate to the "content" of the claims which include at least one of encrypted digital movies, encrypted video games and encrypted MPEG audio layer 3 (MP3) files. Further more, the previously recorded video signals are not pre-populated and instead are video signals recorded in the normal use of the apparatus" (see page 2, Applicant Arguments/Remarks)

Examiner maintains:

Tsukomoto teaches that "in a preferred reproduction mode of operation, the receiving system retrieves the previously stored access-control signals and uses those access-control signals to control the reproduction and processing of the **previously recorded video signals**. The video signals are supplied to video display 105 or to another peripheral device (not shown)." (see column 3, lines 22-27 of Tsukomoto, emphasis added). Therefore, Tsukomoto discloses the previously recorded [i.e., pre-populated] video signals.

Applicant argues:

"Tsukomoto does not disclose pre-populated encrypted predetermined content information stored prior to acquisition by user" (see page 3, Applicant Arguments/Remarks)

Examiner maintains:

Tsukomoto discloses that "in a preferred reproduction mode of operation, the receiving system retrieves the previously stored access-control signals and uses those access-control signals to control the reproduction and processing of the **previously recorded video signals**. The video signals are supplied to video display 105 or to another peripheral device (not shown)." (see column 3, lines 22-27 of Tsukomoto, emphasis added).

Tsukomoto further discloses that "However, the **encrypted video signals** cannot be displayed by ordinary means. It is contemplated that the **encryption** key is prestored in encipherer 22, or is supplied by access controller 28A, or is included in the

Art Unit: 2135

video signals or in the access-control signals supplied by broadcasting station 101. When disabled by access controller 28A, encipherer 22 passes descrambled video signals from descrambler 21A directly to section 23A without **encryption**.” (see column 4, lines 10-18 of Tsukomoto, emphasis added)

Therefore, Tsukomoto discloses pre-populated [i.e., previously recorded] encrypted predetermined content information stored prior to acquisition by user.

### ***Conclusion***

5. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Pan whose telephone number is 571-272-5987.

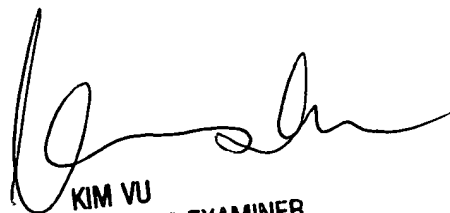
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached at 571-272-3859. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2135

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Joseph Pan

June 12, 2006



KIM VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100